

Before the
Federal Communications Commission
Washington, D.C. 20554

DATE RECEIVED ORIGINAL

RECEIVED

DEC 20 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of) MM Docket No. 93-270
)
Amendment of Section 73.202(b),) RM-8323
Table of Allotments,) RM-8339
FM Broadcast Stations,) RM-_____
(Cordele, Dawson, Montezuma,)
and Nashville, Georgia))

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

COMMENTS
COUNTERPROPOSAL
AND
MOTION FOR MODIFICATION OF LICENSE

Tifton Broadcasting Corp. ("TBC"), licensee of WJYF(FM), Nashville, Georgia, by its attorney, and pursuant to Title 47 C.F.R. §1.420(d), hereby files these comments and counterproposal to the *Notice of Proposed Rulemaking and Order to Show Cause (Cordele, Dawson & Montezuma, Georgia)* ("NPRM"), DA 93-1195, released October 28, 1993, which proposed to allot FM Channel 236A to Cordele, Georgia, in lieu of existing Channel 252A. The Commission also proposed substitution of Channel 290A in lieu of Channel 236A at Montezuma, Georgia. As an alternative proposal the Commission proposed the substitution of Channel 251C3 for Channel 251A at Dawson, Georgia, the upgrade of Station WAZE(FM) for operation on Channel 251C3, and the substitution of Channel 290A for Channel 236A

No. of Copies rec'd _____
List ABCDE

CAS

at Montezuma, Georgia.¹ TBC also moves the Commission to modify the license of Station WJYF, Nashville, Georgia, as set out herein. In support whereof, TBC shows the following:

Background

In the NPRM, the Commission proposed the substitution of Channel 236A for Channel 252A at Cordele, Georgia, and the modification of license of WKKN, Cordele, to operate on Channel 236A. TBC herein counterproposes the substitution of Channel 237C2 for Channel 237C3 at Nashville, Georgia, and the modification of license of WJYF, Nashville, to operate on Channel 237C2.

The attached Technical Exhibit shows that WJYF can upgrade to Channel 237C2 when Station WYSC, which operates on Channel 237A at McRae, Georgia, moves to Channel 274A.²

Public Interest Considerations

The public interest will be better served by adopting this counterproposal than by allotting Channel 236A to Cordele, Georgia. First, this counterproposal will permit the expansion of service by WJYF to provide 1.0 mV/m service to 205,762 persons in 8,127.644 square kilometers. As a Class C3 station, the WJYF 1.0 mV/m

¹ Comments and counterproposals are due by December 20, 1993, thus this counterproposal is timely filed. As the channel change of WJYF to Channel 237C2 is mutually exclusive with the proposal to allot Channel 236A to Cordele, this counterproposal must be interposed now.

² By Report and Order, DA 92-1005, released August 24, 1992, the licensee of WYSC was ordered to change its channel to 274A, to accommodate the upgrade of WJYF to Channel 237C3. TBC holds a construction permit to operate on Channel 237C3. Thus, WYSC will not be a constraint to WJYF.

contour covers 137,400 persons in 4,777.8 square kilometers. This represents an increase of **68,362 persons** over WJYF operating as a Class C3 facility. WJYF is the only local aural service to Nashville.

By contrast, changing the channel of WKKN would offer no public interest benefit. The total population within the WKKN 1.0 mV/m contour is 32,398 within 2529.278 square kilometers. WKKN does not allege that changing channels will permit it to provide service to more people. Instead, WKKN says that allotment of Channel 236A to Cordele will eliminate interference in Leesburg and Smithville, Georgia. Both communities already have local FM services, so this does not provide any public interest reason to substitute the channels at Cordele. The Commission has stated that in making the determination of whether to amend the Table of Allotments it would "take into account the totality of the service improvements resulting from a proposed change in community of license" See *Modification of FM and TV Authorizations (New Community of License)*, 4 FCC Rcd 4870, 66 RR 2d 877 (1989). The Commission must compare the proposed allotment plan to the existing state of allotments for the communities involved. Clearly, adoption of TBC's counterproposal would result in a net service benefit for the communities of Nashville and Cordele. That is, the plan would result in a preferential arrangement of allotments when analyzed under *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 92 (1982), and *Sixth Report and Order*, 41 FCC 148 (1952).³

³ The proposal to upgrade WAZE to Class C3 would serve more additional population than WJYF as a Class C2. However, this would be achieved by

If the Commission allots the channels as proposed herein, TBC will promptly file an application seeking a construction permit for operation of WJYF on the modified channel. Upon grant thereof, TBC will promptly construct the modified facilities.

Changed Allotments

CHANNEL NO.		
<u>CITY</u>	<u>PRESENT</u>	<u>PROPOSED</u>
Nashville, GA	237C3	237C2


In light of the foregoing, TBC respectfully urges the Commission to reject WKKN's proposal to allot Channel 236A to Cordele, Georgia, and instead to (a)

providing additional service to Albany, Georgia, which is already well served by at least seven city-grade signals. Further, WAZE has been off the air since April 1, 1990. (See Supplement to Technical Exhibit.) The Commission, under the "other public interest considerations" component of *Revision of FM Assignment Policies & Procedures*, supra, should consider this information as well as the likelihood that WAZE's silence is evidence that WAZE may never provide service as a Class C3 station, and grant TBC's counterproposal.

substitute Channel 237C2 for Channel 237C3 at Nashville, Georgia, and (b) modify the license of WJYF to operate on Channel 237C2 at Nashville.

Respectfully submitted,

TIETON BROADCASTING CORPORATION

By: 
Gary S. Smithwick
Its Attorney

SMITHWICK & BELENDIUK, P.C.
1990 M Street, N.W., Suite 510
Washington, D.C. 20036
(202) 785-2800

December 20, 1993

**TECHNICAL EXHIBIT
COUNTERPROPOSAL
MM DOCKET NO. 93-270
TIFTON BROADCASTING COMPANY
WJYF (FM) - NASHVILLE, GEORGIA**

**TECHNICAL EXHIBIT
COUNTERPROPOSAL
MM DOCKET NO.93-270**

THE FOLLOWING TECHNICAL EXHIBIT IS PRERPREPARED ON BEHALF OF TIFTON BROADCASTING CORPORATION, (TBC), LICENSEE OF FM RADIO STATION WJYF NASHVILLE, GEORGIA (BLH861210KE), IN SUPPORT OF A COUNTERPROPOSAL TO MM DOCKETT NO.93-270. TBC IS IN THE PROCESS OF CONSTRUCTING FACILITIES ON 237C3 AT NASHVILLE, GEORGIA (BPH921116IH).

TBC BELEIVES THE PUBLIC INTEREST WOULD BEST BE SERVED BY UPGRADING WJYF FROM A CLASS C3 TO A C2 FACILITY. EXHIBIT-1 IS A PLOT OF A SPACING STUDY SHOWING THAT ALL FCC REQUIRMENTS WILL BE MET AS SET FORTH IN SECTION 73.207 OF THE COMMISSIONS RULES. EXHIBIT-2 IS THE SPACING STUDY TEXT. AS A RESULT OF MM DOCKET NO. 92-67, STATION WYSC WAS ORDERED TO CHANNEL 274A, THEREFORE, THIS FACILITY IS NO LONGER A FACTOR. THIS TECHNICAL EXHIBIT CLEARLY SHOWS A LARGE AREA TO LOCATE A TOWER SITE FOR WJYF TO OPERATE AS A C2 FACILILTY. EXHIBIT-1 ALSO SHOWS THE 70 DBu (3.16 MV/m) CONTOUR WILL COVER THE ENTIRE CITY OF NASHVILLE, GEORGIA FROM ALMOST ANYWHERE WITHIN THE CLEAR AREA.

THE TOTAL POPULATION WITHIN THE 60 DBu (1.0 MV/m) CONTOUR FROM THE STUDY COORDINATES WILL BE 205,762 (1990 CENSUS DATA). THE TOTAL AREA OF THE CONTOUR IS 8127.644 SQUARE KM. TOTAL POPULATION AS A C3 FACILITY IS 137,400 (1990 CENSUS DATA). THE AREA WITHIN THE 60 DBu CONTOUR IS 4777.800 SQUARE KM.

OFFERED AS EXHIBIT-3 IS A PLOT SHOWING THE PROPOSED COVERAGE OF WKKN IF ORDERED TO CHANNEL 236A. PLOTTED ARE THE 70, 60, AND 54 DBu CONTOURS, OPERATING WITH 6KW ERP, FROM THE REFERENCE COORDINATES FROM FOOTNOTE #4 IN THE NOTICE OF PROPOSED RULEMAKING. THIS EXHIBIT CLEARLY SHOWS THAT WKKN'S SIGNAL WOULD BE MARGINAL AT BEST IN THE CITIES OF LEESBURG AND SMITHVILLE, GEORGIA, TWO CITIES THAT ALREADY HAVE FIRST LOCAL FM SERVICES. TOTAL POPULATION WITH THE 1.0 MV/m CONTOUR OF WKKN IF OPERATING FROM SAID COORINATES WOULD BE 32,398 (1990 CENSUS DATA). THE TOTAL AREA OF THE CONTOUR IS 2529.278 SQUARE KM.

THIS TECHNICAL EXHIBIT CLEARLY SHOWS THAT THE PUBLIC INTREST WOULD BEST BE SERVED BY UPGRADING WJYF TO A C2 FACILITY. THE POPULATION INCREASE WOULD BE 68,367 PEOPLE MORE THAN WJYF AS A C3 STATION.



CLYDE SCOTT, JR.
EME COMMUNICATIONS

FM CHANNEL SPACING STUDY

Job title: WJYF - C2 SPACING STUDY

Channel: 237C2

Database file name: D:\FCCDATA\FM931028.EDX

Latitude: 31 16 17

Longitude: 83 16 40

Pre-1989 Class A spacings?: N
Reqd.

CH	Call	Record	City	ST	Status	Bear.	Dist.	Dist.	Result
236C	WAPEFM	5396	Jacksonville	FL	LIC	123.6	188.5	188.0	.5
238C1	WIXV	5452	Savannah	GA	LIC	64.0	203.5	158.0	
291A	WLVO	6086	Live Oak	FL	CP	164.9	107.1	15.0	
240C2	WQZY	6123	Dublin	GA	CP	14.8	148.4	58.0	
237A	WYSC	6132	Mc Rae	GA	LIC	24.0	95.5	166.0	-70.5
240C1	WQZY	6143	Dublin	GA	CP	23.3	170.2	79.0	
240A	WQZY	6152	Dublin	GA	LIC	14.8	148.4	55.0	
239C2	WQPW	6603	Valdosta	GA	LIC	165.7	64.8	58.0	6.8
291A	WKMK	6628	Sylvester	GA	CP	292.9	67.1	15.0	
236A	WFAV	6629	Cordele	GA	ADD	328.8	89.2	106.0	-16.8
290C3	WHFE	6631	Lakeland	GA	ADD	144.2	31.6	17.0	14.6
237A	WJYF	6633	Nashville	GA	LIC	217.1	13.9	166.0	-152.1
237C3	WJYF	6643	Nashville	GA	CP	217.1	13.9	177.0	-163.1
290A	WHFE	6646	Lakeland	GA	DEL	156.1	23.0	15.0	8.0
290A	WHFE	6650	Lakeland	GA	DEL	169.3	24.2	15.0	9.2
236A	WFAV	6652	Cordele	GA	ADD	328.8	89.2	106.0	-16.8
240A	WHBX	7251	Tallahassee	FL	LIC	227.6	132.7	55.0	
235C1	WTNT	7254	Tallahassee	FL	LIC	230.9	121.6	79.0	
234C3	WDECFM	7282	Americus	GA	CP	305.8	120.0	56.0	
236A	WLML	7301	Montezuma	GA	DEL	328.2	134.5	106.0	28.5
237A	WTGAFM	7304	Thomaston	GA	LIC	329.0	206.9	166.0	
236A	WLML	7324	Montezuma	GA	CP	328.2	134.5	106.0	28.5
236A		7326	Montezuma	GA	DEL	328.4	134.2	106.0	28.2
238C	WTVYFM	7939	Dothan	AL	LIC	269.9	188.9	188.0	.9
237A		8026	Valley	AL	VACANT	315.6	258.8	166.0	

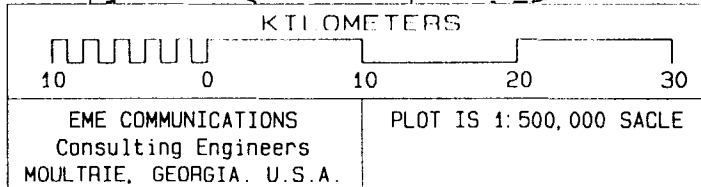
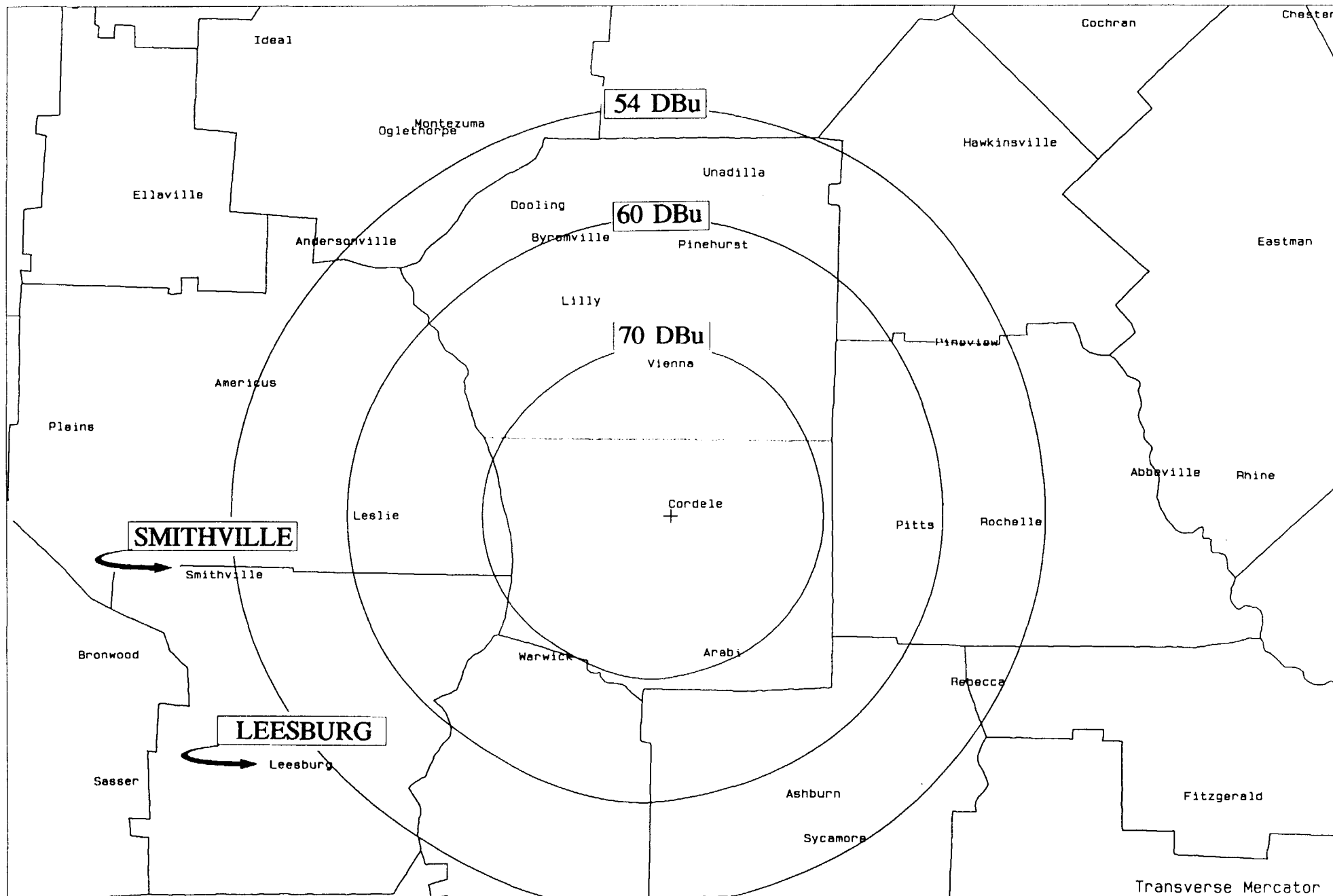
***** End of channel 237 study *****

EXHIBIT-2

SPACING STUDY

WJYF - NASHVILLE, GA.

EME PROFESSIONAL ENGINEERING SERVICES
FOR THE PROFESSIONAL BROADCASTER**COMMUNICATIONS**293 JC SAUNDERS ROAD
MOULTRIE, GEORGIA 31768
(912)890-2506



WKKN CORDELE, GEORGIA.

70, 60, & 54 DBu CONTOURS

12/6/93

EXHIBIT-3

AFFIDAVIT AND QUALIFICATIONS OF PREPARER


STATE OF GEORGIA)
CITY OF MOULTRIE)
COLQUITT COUNTY)

ss:

CLYDE SCOTT, JR. FIRST BEING DULY SWORN, DEPOSES AND SAYS HE IS A BROADCAST ENGINEER AND PRESIDENT OF EME COMMUNICATIONS. HE HAS BEEN ENGAGED TO PREPARE THE ATTACHED TECHNICAL EXHIBIT


THAT HIS QUALIFICATIONS ARE A MATTER OF RECORD BEFORE THE FEDERAL COMMUNICATIONS COMMISSION AND HAS BEEN ACTIVE IN THE BROADCAST INDUSTRY SINCE 1965 AND IN BROADCAST ENGINEERING SINCE 1972. THAT HE IS THE HOLDER OF GENERAL RADIOTELEPHONE LICNESE NO. PG-6-30133.

THAT THE ATTACHED TECHNICAL EXHIBIT WAS EITHER PREPARED BY HIM OR UNDER HIS DIRECT SUPERVISION. ALL MATERIAL AND EXHIBITS HERETO ARE BELIEVED TO BE TRUE AND CORRECT.



CLYDE SCOTT, JR.
AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS
DECEMBER 16TH, 1993



Notary Public, Colquitt County, Georgia
My Commission Expires October 7, 1994

EME PROFESSIONAL ENGINEERING SERVICES FOR THE PROFESSIONAL BROADCASTER COMMUNICATIONS

SUPPLEMENT TO TECHNICAL EXHIBIT

WJYF (FM)

NASHVILLE, GEORGIA.

DECEMBER 20, 1993.

RE: STATEMENT REGARDING WAZE (FM)
WHIA (AM) BEING SILENT.

IT IS MY PERSONAL KNOWLEDGE THAT STATIONS WAZE (FM) AND WHIA (AM) BECAME SILENT AS OF APRIL 1ST 1990. NEITHER HAS RETURNED TO THE AIR OR HAS ATTEMPTED TO RETURN TO THE AIR SINCE THAT TIME. IT IS ALSO KNOWN THAT SEVERAL SPECIAL TEMPORARY AUTHORIZATION REQUEST HAVE BEEN GRANTED BY THE FCC. THE REASON GIVEN UNTIL RECENTLY WAS THAT MM DOCKET 90-475 WAS PENDING AND THE FACILITY WAS NOT MARKETABLE. DOCKET 90-475 WAS ADOPTED JUNE 16, 1993. NOW THE EXCUSE TO KEEP THE STATIONS SILENT IS MM DOCKET 93-270.

THE ADDITIONAL POPULATION GAINED BY UPGRADING WAZE TO C3 STATUS IS MOSTLY GAINED IN THE ALBANY GEORGIA METRO SURVEY AREA WHICH INCLUDES DOUGHERTY AND LEE COUNTIES. THE INCREASE IN DOUGHERTY COUNTY WILL BE FROM 13,441 TO 96,311 PERSONS, AN INCREASE OF 82,870 PERSONS IN AN AREA THAT HAS NO LESS THAN SEVEN CITY GRADE SIGNALS. THE INCREASE IN LEE COUNTY WILL BE 11,518. THERE WILL BE A DECREASE IN POPULATION IN TERRELL COUNTY, WHERE DAWSON IS THE COUNTY SEAT, OF 119 PERSONS. THE APPARENT REASON FOR THIS UPGRADE TO WAZE IS NOT TO BETTER SERVE THE PEOPLE OF TERRELL COUNTY BUT BECOME AN ALBANY, GEORGIA STATION.



CLYDE SCOTT, JR.
EME COMMUNICATIONS

CERTIFICATE OF SERVICE

I, Patricia A. Neil, a secretary in the law firm of Smithwick & Belendiuk, P.C., certify that on this 10th day of March, 1993, copies of the foregoing were mailed, postage prepaid, to the following:

James W. Jennings
Vice President
Radio Cordele, Inc.
910 20th Avenue East
P.O. Box 460
Cordele, Georgia 31015

John F. Tuck & Phonso Donaldson
Receivers of Dawson Broadcasting Company
c/o Truitt Martin, Jr., Esquire
P.O. Box 683
Dawson, Georgia 31742


Patricia A. Neil